

Chapter 3

Major Policy and Implementation Questions Related to the Noise Regulation

As regulations are applied in the field, it is inevitable that questions will arise. It is, after all, very difficult to anticipate every situation when preparing a regulation. Sometimes the questions relate to specific and unique situations of limited interest to anyone but the office involved. Other questions, however, raise issues of more general concern. In this section we have brought together the most important and most relevant questions that have arisen since the noise regulation went into effect in August of 1979. We have used a question and answer format for your convenience.

The following are the topics included:

1. Noise projections for civil airports
2. Definition of infill for small towns
3. Areawide EIS waivers
4. Requirements for modernization and rehabilitation projects
5. Use of berms and barriers as attenuation measures
6. New and revised airport noise contours

Questions and Answers

1. How valid and useful are civil airport noise projections that show significant reductions in the amount of land exposed to high noise levels? Should we be suspicious?

Contours that show significant reductions in the area exposed to high noise levels may seem questionable, but, according to the Environmental Protection Agency, they may be quite accurate. The EPA does expect to see some significant reductions in the number of people exposed to high levels of aircraft noise over the next 15 years. In their report *Aviation Noise: The Next Twenty years*, EPA stated that they expected to see the number of people exposed to levels of 65 Ldn or greater to drop from a 1975 figure of 5,550,000 to about 2,650,000 in the year 2000. Much of this reduction would occur during the period 1980–1985 with more modest decreases thereafter. The reductions are expected to result from the Federal Aviation Administration's current noise certification requirements, even with up to 100% increases in aircraft operations. (Current certification requirements are for all new aircraft to achieve stage three noise levels and all older aircraft to achieve stage two levels by 1985. Progress has been good in meeting these requirements.)

In general then, you should not be surprised to see significant reductions in contour size if the following conditions are met:

- the decrease in size is no more than 50%;
- the increase in operations is no more than 100%; and
- FAR stage 3 aircraft, such as the B757 and B767, are included in the fleet mix, but not to the total exclusion of all other aircraft. Assuming that the contours are otherwise technically correct, significantly smaller contours should be acceptable.

2. Many small towns aren't big enough for a project to meet the definition of infill contained in section 51.104 (b)(1)(ii). However, a project located in the heart of town can hardly be considered to be in a largely undeveloped area. Must an EIS be prepared?

Not necessarily. If the jurisdiction in which the project is located is not part of a standard metropolitan area, a project may be considered infill if it is within or contiguous to the already developed area and infrastructure (particularly water and sewer) is available and has the capacity to serve the project. It must also be clear that the project will not encourage the establishment of other incompatible land uses in the normally unacceptable noise zone.

If you believe a project meets these criteria, submit documentation to the Office of Environment and Energy for their review and determination.

3. What can we do to reduce the procedural burden when, for a variety of reasons, the Department expects to be considering a number of projects in an unacceptable noise zone? Most of the projects would probably qualify for an EIS waiver, but how can we avoid filling repetitive, individual requests?

While the number of cases where the Department would be seriously considering a number of projects exposed to unacceptable noise levels in the same jurisdiction is likely to be limited, there is an alternative to individual processing in those situations. The alternative is to issue an areawide waiver for the entire affected jurisdiction. Such a waiver can be useful when the unacceptable noise zone heavily impacts a substantially developed community with limited site alternatives. (In most cases we would expect that the noise source would be aircraft, but in very small towns it is possible that a heavily used rail line could create a large unacceptable noise zone.)

An areawide EIS waiver would, of course, have to have a more detailed environmental assessment than an individual project request, and there are other special processing steps.

But if you have a situation where you think the Department has a good reason to expect to process a number of projects within the unacceptable noise zone, there is an alternative to individual EIS waivers. Contact the Office of Environment and Energy for details on how to request the areawide waiver.

4. What exactly are the processing requirements and general policies for modernization and rehabilitation projects? Does section 51.104 apply to them as well as to new construction? The noise regulation is a bit confusing on this.

Yes, the noise regulation is a bit confusing on this question. We have seen several instances where field offices have mistakenly applied the provisions of Section 51.104 to modernization and rehabilitation projects. We believe that this happens because section 51.104 is not as clearly titled as it might have been. It would be better if it read "special requirements for new construction" rather than simply "special requirements".

The only parts of the regulation that apply to modernization and rehabilitation projects are sections 51.101 (a)(5) and the definitions of normally unacceptable and unacceptable noise zones contained in the table in section 51.103. None of the other processing or policy provisions of the table or of sections 51.102 and 51.104 apply. Therefore:

- modernization and rehabilitation projects are to be processed by the field offices regardless of the noise zone.

- EIS's are not required for modernization and rehabilitation projects unless mandated by other applicable environmental regulations.

You must however continue to encourage attenuation features in modernization and rehabilitation projects, in accordance with the general policy stated in section 51.101(a)(5).

5. We know that berms and barriers are the preferred type of noise attenuation because of the protection they provide for outdoor living areas, but we need some further guidance on when they are really the best choice.

While barriers can be an effective noise attenuation technique, they must, indeed, be used with caution and common sense because they can create more problems than they solve. Very high noise barriers can create significant aesthetic and financial problems relative to the noise benefit to be achieved. Barriers can block light, hinder natural ventilation, create an unpleasant sense of being walled in, and can be very unattractive. In addition, barriers do require continuing maintenance and can be very costly to build.

It is important to remember that the noise regulation says that "measures that reduce external noise at a site shall be used **wherever practicable.**" Is it practicable to propose a 20 foot high barrier only 15 feet from the rear of a two-story building? Granted it would certainly protect the building from noise, but what about the blocked light, the reduced ventilation, the visual impact, and the cost? The purpose of a barrier is primarily to reduce the noise levels in those outdoor areas that people use. The secondary purpose is to reduce the need for structural attenuation. Therefore, the barrier should only be as high as is necessary to protect those areas. Structural attenuation should be required for the parts of the building not protected by the barrier. And if there aren't any outdoor areas where low noise levels are important, barriers shouldn't be required unless they would be more cost effective than building attenuation measures.

6. What should we be doing once we have processed new or revised aircraft noise contours and they have been approved for use?

The most important thing you can do once new or revised aircraft noise contours have been approved for use is to tell the people who are most likely to be affected by the change. If you have a newsletter that you regularly publish, that is one way to get the word out. At the very least you should specifically notify the affected jurisdictions and the builders/developers who are known to be active in the vicinity of the noise impacted areas. Make sure you notify builders and developers who have large scale projects that you have been processing in sections. Go back and check your files to find them. Even though you should have done an overall environmental review of the project at the time the first section was submitted, the approval of individual sections is dependent on the noise levels at the time that section is submitted.